Excerpt from the CITY PLANNING COMMISSION MINUTES Minneapolis Community Planning & Economic Development (CPED)

Planning Division

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MEMORANDUM

DATE: November 8, 2012

TO: Steve Poor, Planning Manager – Zoning Administrator, Community Planning &

Economic Development - Planning Division

FROM: Hilary Dvorak, Interim Planning Manager, Community Planning & Economic

Development - Planning Division, Development Services

CC: Jason Wittenberg, Interim Planning Director, Community Planning & Economic

Development Planning Division

SUBJECT: Planning Commission decisions of October 15, 2012

The following actions were taken by the Planning Commission on October 15, 2012. As you know, the Planning Commission's decisions on items other than rezonings, text amendments, vacations, 40 Acre studies and comprehensive plan amendments are final subject to a ten calendar day appeal period before permits can be issued.

Commissioners present: President Motzenbecker, Cohen, Huynh, Kronzer, Luepke-Pier, Schiff and Tucker - 7

Not present: Mammen and Wielinski (excused)

Committee Clerk: Lisa Baldwin (612) 673-3710

5. Seward Community Cafe Rezoning (BZZ-5786, Ward: 2), 2123-29 E Franklin Ave (Kimberly Holien).

A. Rezoning: Application by Nils Collins of the Seward Community Cafe for a rezoning from the C1, Neighborhood Commercial district to the C2, Neighborhood Corridor Commercial district to allow for a sit down restaurant, including the serving of alcoholic beverages, with general entertainment at 2123-29 E Franklin Ave.

Action: The City Planning Commission recommended that the City Council adopt the findings and **approve** the rezoning from the C1, Neighborhood Commercial district to the C2, Neighborhood Corridor Commercial district for the property located at 2123-29 Franklin Ave

Approved on consent 6-0.

B. Variance: Application by Nils Collins of the Seward Community Cafe for a variance to reduce the off-street parking requirement from 15 spaces to 14 spaces for property located at 2123-29 E Franklin Ave.

Action: The City Planning Commission adopted the findings and <u>approved</u> the variance to reduce the minimum vehicle parking requirement from 15 spaces to 14 spaces for the property located at 2123-29 Franklin Ave E, subject to the following condition:

1. A minimum of seven bicycle parking spaces shall be provided at all times to qualify for the bicycle incentive in Section 541.220 of the zoning code.

Approved on consent 6-0.

- 9. Birchwood Café Addition (BZZ-5773 and MS-227, Ward: 2), 3311 25th St E and 2505 33rd Ave S (Shanna Sether).
 - **A. Rezoning:** Application by Tracy Singleton for a petition to rezone 3311 25th St E and a portion of 2505 33rd Ave S from R1A Single-Family District to C1 Neighborhood Commercial District to allow for the expansion of an existing sit-down restaurant.

Action: The City Planning Commission recommended that the City Council adopt the findings and <u>approve</u> the rezoning petition to change the zoning classification for the property located at 3311 25th St E and a portion of 2505 33rd Ave S from R1A Single-Family District to C1 Neighborhood Commercial District to allow for the expansion of an existing sit-down restaurant.

Aye: Cohen, Huynh, Kronzer, Luepke-Pier, Schiff and Tucker

Absent: Mammen and Wielinski

Motion passed

B. Variance: Application by Tracy Singleton for a variance to reduce the required off-street parking from 9 spaces to 0 spaces, where 6 are grandfathered in. The expansion of the restaurant requires 3 additional parking spaces for the property located at 3311 25th St E and 2505 33rd Ave S.

Action: The City Planning Commission adopted the findings and <u>approved</u> the variance to reduce the required off-street parking from 9 spaces to 6 spaces, where 6 are grandfathered in, to allow for the expansion of an existing sit-down restaurant located at 3311 25th St E in the C1 Neighborhood Commercial District, subject to the following conditions of approval:

 Bicycle racks shall be provided to accommodate no fewer than three (3) bicycles on the property and shall meet the minimum requirements for short term bicycle parking. The bicycle parking may be located in the public right-of-way with permission of the city engineer.

Aye: Cohen, Huynh, Kronzer, Luepke-Pier, Schiff and Tucker

Absent: Mammen and Wielinski

Motion passed

C. Variance: Application by Tracy Singleton for a variance to reduce the minimum lot area requirement for a single-family dwelling located at 2505 33rd Ave S from 5,000 square feet to 4,123 square feet for the property located at 3311 25th St E and 2505 33rd Ave S.

Action: The City Planning Commission adopted the findings and <u>approved</u> the variance to reduce the minimum lot area requirement for a single-family dwelling located at 2505 33rd Ave S from 5,000 square feet to 4,123 square feet in the R1A Single-Family District.

Aye: Cohen, Huynh, Kronzer, Luepke-Pier, Schiff and Tucker

Absent: Mammen and Wielinski

Motion passed

D. Site Plan Review: Application by Tracy Singleton for a site plan review for the property located at 3311 25th St E and 2505 33rd Ave S.

Action: The City Planning Commission adopted the findings and <u>approved</u> the site plan review to allow for the expansion of an existing sit-down restaurant located at 3311 25th St E in the C1 Neighborhood Commercial District, subject to the following conditions:

- 1. CPED planning staff review and approval of the final site plan, lighting plan and landscaping plan is required before permits may be issued.
- 2. All site improvements shall be completed by October 15, 2014, (unless extended by the Zoning Administrator) or permits may be revoked for noncompliance.
- 3. Applicant shall work with CPED Planning staff and Public Works on traffic control measures, such as a "No U-Turn" sign.

Aye: Cohen, Huynh, Kronzer, Luepke-Pier, Schiff and Tucker

Absent: Mammen and Wielinski

Motion passed

E. Minor Subdivision: Application by Tracy Singleton for a minor subdivision to adjust the common lot line between 3311 25th St E and 2505 33rd Ave S, including a subdivision variance to allow for a residential parcel with more than 5 sides.

Action: The City Planning Commission adopted the findings and <u>approved</u> the minor subdivision to adjust the common lot line between 3311 25th St E and 2505 33rd Ave S, including a subdivision variance to allow for a residential parcel with more than 5 sides.

Aye: Cohen, Huynh, Kronzer, Luepke-Pier, Schiff and Tucker

Absent: Mammen and Wielinski

Motion passed

Staff Sether presented the report.

Commissioner Kronzer: Can you talk about the idea of using an easement versus the lot configuration for the single family house? Instead of making a six sided lot for that house, the idea of making it a joint easement to get back to the alley.

Staff Sether: When staff met with the applicants, there was a plan at one point to carry the property line all the way to the rear and allow for The Birchwood to be expanded to the south. The difficulty in that is that the remaining lot area for 2505 33rd Ave S would be less than the maximum variance that could be granted. The smallest lot that could be approved for residential use is 3500 square feet. That would put them well under. Additionally, staff did vocalize our concerns about reducing the off-street parking for 2505 33rd Ave S to zero without access to the alley. It would make providing off-street parking for that residence difficult if not impossible because we'd have to see maybe a new curb cut along 33rd Ave S, an attached front facing garage and all the associated variance that would be required. The applicant came back with this proposed design with the six sided parcel.

Commissioner Kronzer: Those off street parking requirements aren't necessarily requirements for a single family house, those are options, correct?

Staff Sether: Actually it is required. There is a minimum off street parking requirement for a residence of one space per dwelling.

President Motzenbecker opened the public hearing.

Paul Carnahan (2515 33rd Ave S): When that original variance was granted, it was basically a favor to the owners so they could sell that place. It was for sale for a while. It was a personal relationship. When that was signed, we were told a coffee shop or baked goods or possibly ice cream would be there. It opened as a full service restaurant. That's not what we envisioned. My biggest concern with all this is the huge amount of traffic, especially in the alley. There are semis in that alley regularly and it's blocked so when I try to get to the street out of the alley I only get one way. We had a case in the big snow two years ago where I couldn't get out either way. Unless you've listened, you don't have any conception of the freight that moves in and out of that place. It's been quieter lately because a lot of cooking is being done off site. It's not going to be less when it's four tables bigger. I don't know how you're going to get the trucks out of that alley. Lately, they've been across the alley blocking a lane of 25th Street. We have lists of times. That's my biggest deal.

Amy Curtis (2509 33rd Ave S): I live in the property immediately adjacent to where the proposed expansion will be. I want to preface my remarks by saying that The Birchwood is a great restaurant. People in the neighborhood like it, we enjoy it and there's a great deal of enthusiasm in the neighborhood for the restaurant. I think that enthusiasm has obscured the real issue, which is what is the proper zoning and the proper land usage for this parcel of land no matter who occupies that land. Land usage should be applied uniformly. I feel that this is not the proper zoning or land usage for this residential area. As was mentioned previously, this is not a commercial corridor, this is not a commercial node. I've done an informal survey of some of my neighbors and I have a petition that you may have in your packet. It's a number of people who are opposed and I think it's interesting to note that the first six residences immediately adjacent to this proposed expansion are opposed. My concern is not just for this proposal, but what happens in the future if this property is rezoned and The Birchwood moves elsewhere or even if they stay and want to do further expansion and there won't be space for public comment on it? There's also no reason why the property owners who own the commercial building across the street, why they can't also expect the same consideration if they chose to rezone and make their building commercial and redesign it for more invasive uses than already are here. So those of us who live the closest to The Birchwood, many of us are opposed to this. It's different than if you live a block away. Thank you.

Sharon Johnson (2320 33rd Ave S): I admire Tracy as a business person and it is a great business. I would like to take that aside from the fact that I am also just looking at this as a parcel of property and my hesitation is in having it rezoned from R1 to C1. I think the scope of the project and the vision for the project might be bigger than what can be handled at that spot or at that place. A lot of the community support that we heard at the neighborhood meeting, we heard from a lot of people that work and live in the neighborhood, but I don't know how many people that live really adjacent or close to the restaurant are in support of it. I think the neighborhood as a greater entity is in support of it and I do understand and appreciate that. I think maybe I would be in support of this if it was two or three miles from my home, but the impact is much different when it's in your back yard.

President Motzenbecker: Do you have more specifics that would help us out? What specifically about the zoning to C1 is concerning for the immediate neighbors and yourself?

Sharon Johnson: I'm uncomfortable about future use, about what doors it could open for that future use. There are some restrictions that come with an R1 zoning. The restaurant seems to be doing fine now. I'm curious to know if the questions that I've heard concerning bathrooms and things like that, it's been operating for this many years with the same configuration so I guess don't really understand why this has become a problem now. If this is in violation of health code,

why hasn't it been in violation of health code the entire time? I'm just wondering why there can't be a work around to retain the current zoning that we have. My concerns are really with it being rezoned commercially. I think that it would not be of benefit to the residential neighborhood to have it be rezoned commercially.

President Motzenbecker: Has there been, for yourself and other residents...is there any neighborhood concern with what happens four blocks down at the donut shop, which is C1? Has there been any major issues there?

Sharon Johnson: I think if they have the same amount of foot traffic and car traffic and delivery traffic...The Birchwood is more than just a café and I think that's a positive thing in the neighborhood but it can also be a negative. It brings a lot of people into the neighborhood. I don't see that same level of activity at that location. I don't think the concern is the same. I think that based on what we are experiencing now living five doors down, my apprehension is that as this gets bigger and the zoning changes our futures could be negatively impacted by that.

President Motzenbecker: I only bring it up because someone could tear down the donut shop and put something up similarly there.

Tori Johnston (2521 34th Ave): The last two speakers covered most of my concerns. It's mainly about traffic to me. I think everyone's in agreement that we like The Birchwood very much. The traffic gets crazy at times. The people doing U-turns in the middle of that street is unbelievable to me. If you were to sit there for an hour or two and watch the traffic, it gets kind of crazy. I think they've used up the footprint.

Tracy Singleton (2501 33rd Ave S): The current delivery process that we have, there isn't an exact time. Certain deliveries come on certain days of the week. As far as semi's, we don't have semi trucks that deliver in the alley, they pull out in the front of the café and make their deliveries that way. We have smaller trucks and vans that deliver in the alley. We have worked with farmers, producers and vendors that we work with and asked them not to deliver early in the morning, we asked that they don't do any maneuvering in the alley or block the alley. I don't know if you have in front of you the plans that we proposed. Part of what we want to do with the new plan is provide kind of an egress for deliveries in the back to be able to pull off to the side so they aren't blocking the alley.

Kurt Schreck (1563 E River Terrace): I'm a business operator in Seward. Since becoming aware of The Birchwood, I've been amazed. It's really more than a restaurant; it's really its own category and part of that is that it operates at such an exquisite level. One of the things that I think people assume is that when you have a business that does as well as The Birchwood, that the success is assured. I have a lot of history in restaurants and I can tell you that unless you occasionally improve the amenities for existing customers, these competitors come after you all day long. A need to give your employees a decent kitchen to operate in will help the retention and ensure quality. Restrooms seems obvious, but that has to improve. There's a changing standard in that area and The Birchwood is required to keep up. A lot of this is to mitigate and address shortcomings of the building and gives Tracy a chance to sustain her business. I don't want to that be lost. This is a chance for her to sustain what is really an institution that spills out into the greater Twin Cities area and really defines what it means to be a responsible business that promotes vision and excellence and leads in areas of quality of life. I think that this is a thoughtful plan.

Cheryl Yano (3302 E 25th St): I live across the street from The Birchwood. Of those who have spoken today, there are only four residences across the street from The Birchwood and unfortunately the other two that support The Birchwood's plan to rezone are not here. I have lived there for 35 years. I lived there when it was the dairy. I lived through when they were going to sell and the anxiety that went through the neighborhood about what was going to go in there. It took them two years of turning down proposals before Tracy came along with the café. Dell and her husband felt strongly that it would fit the neighborhood and the community of Seward and it sold. I have never had a problem with The Birchwood as a café or as a dairy with traffic or noise, abusiveness of clientele, destruction of property or anything. It's just a wonderful asset to the neighborhood. It's like being in a small town living area despite the fact that The Birchwood sits in the middle of a big city. There is traffic on E 25th, but there has always been traffic on E 25th. East 25th is the only thoroughfare between the Franklin Bridge and E 25th from the river road to Hiawatha. It has been there since the day I moved in and it continues and it's part of being in the city. The Birchwood, they are charitable, they have bikers that gather to go on bike rides, there are families with children who come and draw on the sidewalk...it's the kind of business that you want to be around if there is going to be a business in your neighborhood. I love the vibrancy that the establishment brings to the neighborhood and the sense of community feeling. I do hope that her plans will be approved today. Thank you.

David Walsh (3221 E 24th St): I'm a resident and small business owner in Seward. I have lived in Seward since 1973. I think part of the challenge is success and I think people have talked about the fact that The Birchwood is not your ordinary restaurant. It has become a community institution. I can't tell you, as a small business owner who operates out of my home, I can't tell you how many business meetings I've had at The Birchwood. Whenever I say "let's meet at The Birchwood", people from all over the Twin Cities say "great idea" because it has become well known as a community asset. I think Tracy has turned herself inside out over the last five years to try to come up with a plan that would meet all of the needs of the neighborhood and I think that's a testament to the kind of business owner she is. I think that the success is what we're talking about and that's what we want in the city. I think another thing to consider is that if this is not approved, then I can't put myself in Tracy's place, but if I had a successful business going which could not work then I'd start looking for something else and then we would lose that asset. I think the strength that the Seward neighborhood group showed at the meeting in September when scores of neighbors showed up in support are testament to the fact that it's a community asset that we should try to help make succeed and not try to drive away to another location. Thank you.

Tracy Alsterlund (2500 34th Ave S): We own the property at 3319 E 25th St. We are directly across the alley from The Birchwood and have a very long public lot. We work and live and parent all in that space. I'm here to offer my support for the plan and I can speak to the delivery issue [tape ended]...with parking, we don't currently have a parking problem. Yes, there are cars that park all around our property. We have not had a problem finding parking and have a parking pad that we can use if we need to. This summer, three times, getting out of our parking pad was as problem because of a delivery truck. It was quickly remedied with a "could you please move" with a friendly response and was not an issue in delaying us for anything. I think the new plans and considerations that Tracy has made to try to get the traffic to the side so people could pull through is something to be commended. There has been benefits that she has extended to her employees who bike. Her employees park a block away and walk, that's how I know them and consider them my neighbors as well. The bike racks that she's added for people and the Nice Ride station that's there has improved the visibility coming out of the alley because I noted it when our street got re-graveled and the bike racks were moved. We've had a chance to connect with the farmers that come and drop by things and thank the people that drop off our produce

because Tracy extends her place to be a CSA pick up for many families that live in the neighborhood. It's a great opportunity to be able to use The Birchwood as more than just the restaurant. She's really extended herself into the community in many ways. The business has been sustainable. It has weathered a recession and thrived during a recession. I think we really need to consider that when we think about what businesses we want to promote in our neighborhood. No other business owner in our neighborhood has taken the time to seek out my husband or I with concerns or questions or any problems we may have or has been as open as Tracy. Her plans really reflect that. I can talk selfishly about how all this will benefit me. I'll be able to continue to walk to my next door neighbor to get my vegetables. The garage and the dumpsters that right now need remodeling will be transformed into a nice garden at a friendly delivery area. The bigger kitchen and extended bathrooms will be good for families. The bigger kitchen is going to bring back my rosemary garlic bread that I could easily get in the new take out line and I won't take up parking spots when I walk there and get it and I can get it quickly instead of going through the long line which I would delay. Those are all selfish ways that I would benefit as a next door neighbor.

Diane Nunberg (2616 34th Ave S): Out of respect for the U-turns and the traffic, one of the things that I'd like to offer as a suggestion is if we could have signs posted that are very specific "no U-turns" on that particular block. I think the only other offer is the importance of community values that are discussed as people come together at this restaurant; not only is it family oriented, but I go there as a single individual quiet often. I think it is a source for the community to come together and even people from outside of the immediate community to come together, have a space that has already developed this type of intention and commitment that is for the greater good of this city.

President Motzenbecker closed the public hearing.

President Motzenbecker: I think it'd be helpful for the commissioners and the public if you had information on the list of what's applicable to put into a C1 just so we can understand the width and breadth of the uses that fit within that zoning category.

Staff Sether: I'll defer to Mr. Wittenberg.

Staff Wittenberg: As you're aware, C1 is our lowest intensity commercial district that allows a range of general retail sales and services like bakeries, barber shops, clothing stores, drug stores, hardware stores, locksmiths, picture framing. Typically, the types of uses that are considered to be the most compatible with residential uses that we don't allow like convenience stores, new auto repair shops and things like that that have greater off site impacts on neighbors.

Commissioner Schiff: I'd like to move approval of the rezoning (Huynh seconded). Every time I see this it makes me wonder why a commercial property that was built in 1926 was ever zoned for a single family home. It's currently zoned R1. The only properties that should be zoned R1 in our city are single family homes. This downzoning that happened in the 1960s happened at the same time that people were fleeing the city and it directly related to a loss of neighborhood businesses. The use here is really not going to change. I think one of the speakers said land uses should be applied uniformly. That was the 1960s where zoning was all one type for residential neighborhoods, all one type for commercial neighborhoods and the idea of mixed uses was thrown out the window. The way that the city was built, the street car lines that had businesses next to homes was forgotten. We forgot out own DNA of how this city developed over time. I couldn't be more happy to return conforming zoning rights to this business, which has been consistently operating as a commercial property ever since it was built. It never should have been

downzoned in the first place. When we downzone, we scare away investment, we forget the history of our neighborhoods and we start acting more like suburbs where commercial businesses are told "you go away, you go to the other side of the freeway, over here we just have homes." That's not how a city is developed over time. That's not the way the city of Minneapolis has ever been and we're really correcting a wrong that was done a long time ago by approving this rezoning today. At the same time, it's not just an urban planning piece of bureaucracy that we're fixing here, we're also ensuring that the business stays for the long term and that's the most important thing because nobody invests in a property if they can't recover that investment. I wouldn't invest in my home if it wasn't zoned for a home, nobody would if they thought that investment was going to be lost. This is the best thing we can do in this economy particularly to encourage people to invest and stay – homeowners and businesses alike and I'm glad we're doing it.

Commissioner Cohen: I have a question for staff. I occasionally see "no U-turn" signs here and there; any chance that we could get one here?

Staff Sether: I think this is something that we could discuss with our Public Works Department, but as far as something we can tie to the rezoning or land use applications, I think that's out of our...

Commissioner Cohen: I understand that, but I think it'd be a good idea if we were to discuss it with the traffic department and see what would be done along those lines.

Staff Sether: Sure. We're in the middle of preliminary development review so there's an opportunity to do that.

Commissioner Huynh: Having a building that operates under sub-fire/safety/health standards is not necessarily a public benefit. Just because it's been operating that way doesn't necessarily mean that you want to proceed in that direction. I think a good example of a restaurant that had this unfortunate situation is Black Bird and Patina on 50th and Bryant just two years ago. The primary reason for why buildings aren't upgraded is because they're not mandated to unless it's being touched. For that reason of fire and safety code, I think that's a primary reason why the rezoning and the building should be upgraded, but also for accessibility reasons you can't have people with physical handicaps or seniors that need wheelchairs to be able to access the restrooms and other areas. Although it may not be an issue to us just because we are still physically able. It offers limitations for people and other members of the public to be able to enjoy that resource. I do think it's in the public interest for this project to proceed and I do think the way that it operates right now is not necessarily a reasonable use if the rezoning goes forward.

Commissioner Kronzer: I support the rezoning. There's a long list of limits to C1 zoning, which is appropriate for this site. It's a very well designed project. The way the alley is being treated with the trash enclosure being enclosed, the pull out space in the alley – this is a very good improvement to the existing condition. I think the way the project is improving the existing situation is a very good one.

President Motzenbecker: I wholeheartedly support this. I think Commissioner Schiff was very eloquent in how he outlined his thoughts and I agree with him one hundred percent. Since 1924 this has been a commercial property and that is the very reason that this commission had staff do this map to explore what other C1 zonings were around the city as a result of the old streetcar system and how important those are to the life and breath and community that they sit within. I believe Ms. Yano said it best that it's part of being in the city; there's traffic, there's cars, there

are restaurants and communities. It's the vibrancy and life of living in the city. If you didn't want that, I would assume you wouldn't live here. With that, the motion has been moved and seconded.

Aye: Cohen, Huynh, Kronzer, Luepke-Pier, Schiff and Tucker.

Absent: Mammen and Wielinski.

The motion passed.

Commissioner Tucker: I will move variance B (Huynh seconded).

Ave: Cohen, Huynh, Kronzer, Luepke-Pier, Schiff and Tucker.

Absent: Mammen and Wielinski.

The motion passed.

Commissioner Tucker: I will move items C and E (Huynh seconded).

Aye: Cohen, Huynh, Kronzer, Luepke-Pier, Schiff and Tucker.

Absent: Mammen and Wielinski.

The motion passed.

Commissioner Tucker: I will move site plan review and conditions recommended by staff (Huynh seconded). This might be the place one would recommend that the applicant discuss with Public Works about traffic control.

Aye: Cohen, Huynh, Kronzer, Luepke-Pier, Schiff and Tucker.

Absent: Mammen and Wielinski.

The motion passed.